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AUTHOR Stone, Rebecca
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ABSTRACT

This publication seeks to explain the many facets of adolescent abortion: teenagers' need for access to safe abortion; the need for confidentiality in order to ensure safety; the real intent and effect of parental involvement laws; and the roles of parents and the state in safeguarding the health of pregnant teenagers. The first section looks at unwanted pregnancies and the choice of abortion. The next section focuses on teenage pregnancy, looking at teenage sexual activity and contraceptive use and considering parent-child communication about sex. Included is information on the public cost of teenage childbearing. This is followed by a section examining the alternatives to abortion--teenage childbearing and adoption. A section on adolescents and confidentiality addresses the issues of minors and their need for reproductive health care, adults and parental involvement laws, and compelled parental involvement delays on abortion decisions. A section on adolescent abortion and the Supreme Court reviews five relevant court decisions. Following a final word about the dangers of restricting adolescent abortion rights are a list of references and two appendices providing a state-by-state breakdown on the status of parental consent and nonfiction laws and related information. Tables and figures are included throughout the document. (NB)

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ADOLESCENTS & ABORTION

CHOICE IN CRISIS

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Adolescents and Abortion: Choice in Crisis

Written by: Rebecca Stone
Research: Alisa Pascale

Many people contributed their time and expertise to the creation of this report. First and foremost, the author wishes to thank CPO's *pro bono* lawyers Nina Kimball and John Henn of Foley, Hoag and Eliot for their excellent work preparing the Supreme Court *amicus* brief that gave rise to this publication. Janet O'Keefe of the American Psychological Association and Nina Kimball contributed insightful comments and refinements to the draft, as did numerous CPO staff members. The National Abortion Rights Action League graciously gave us permission to draw quotations from its moving publication "The Voices of Women. Abortion: In Their Own Words." Finally, this publication was assisted in part by the financial contributions of the Brush Foundation, the Robert Sterling Clark Foundation, the Educational Foundation of America, and the Jessie Smith Noyes Foundation. CPO is grateful for this support.

Adolescents and Abortion: Choice in Crisis is dedicated to all teenage girls trying to find healthy answers to a crisis pregnancy.

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The potentially severe detriment facing a pregnant woman is not mitigated by her minority. Indeed, considering her probable education, employment skills, financial resources, and emotional maturity, unwanted motherhood may be exceptionally burdensome for a minor. In addition, the fact of having a child brings with it adult legal responsibility, for parenthood, like attainment of the age of majority, is one of the traditional criteria for the termination of the legal disabilities of minority. In sum, there are few situations in which denying a minor the right to make an important decision will have consequences so grave and indelible.

— *Bellotti v. Baird*, 443 U.S. 622, 642 (1979). Excerpted from the plurality opinion.

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OVERVIEW

"Parents have a right to know what their kids are doing."
"You need parental permission to give my child an aspirin!"
"I don't want my daughter to go through something like that without me."
"A 14-year-old isn't mature enough to make that kind of decision."
"Teenagers shouldn't be having sex, anyway. They get what they ask for."

If the subject of abortion is divisive, the idea of adolescent abortion is doubly so. Even many who call themselves pro-choice hesitate when talking about a teenager's abortion rights because it is difficult to think of a young person having to face such a fundamental decision on her own, without guidance or help. This ambivalence about the maturity of young people, and the unsettling image of a pregnant teen making a decision in isolation has led a large majority of adults to agree that parents should be involved.

Thus has the abortion debate split over the subject of minors' access to safe abortion. In state after state, in committee rooms and in dining rooms, people uneasy about teenage abortion and sometimes uneasy about their roles as parents debate whether the government should guarantee adults the deciding vote in their daughters' reproductive decisions. Because of these concerns, an unlikely fellowship has developed among abortion foes, for whom any means to limit abortion access is acceptable, those who are mostly concerned with their own or others' parental authority, and those who believe that the outcome of legally compelled parental involvement will always be "advice that is compassionate and mature."[1]

All of these people, following different and often well-intentioned instincts, have found something to like in parental consent and notification laws. Some support the concept of parental involvement because they presume families are like their own: supportive of their daughter's best interests. Others have reacted in a punitive way, believing that abortion allows a girl to avoid punishment for having sex, and casting a full-term pregnancy as that just punishment. Even some pro-choice politicians, who must always practice the art of political compromise, have shown flexibility within their positions on abortion rights to allow for restrictions on adolescent abortion access. And the Supreme Court, in its decisions regarding the Minnesota and Ohio parental notice statutes, could arrive at no coherent consensus about either the intent or the impact of state-compelled parental involvement. Politically vulnerable and largely ignorant of the laws affecting them, adolescents — and their right to make private choices about childbearing — have become the middle ground the public so desperately seeks in the abortion debate.

Pregnant adolescents do need the help and counsel of adults. How that counsel is provided, however, and whether the government dictates its source and content are at the heart of the controversy over adolescent abortion rights. For many adults, teenage pregnancy and teenage abortion loom as dilemmas for parents. A teenage pregnancy seems to mark a failure of parenting, and an adolescent's unwillingness to tell her parents may appear to be an even greater indictment of the parent-child relationship or lack of parental control. Independent of the question of abortion, when it comes to their children, parents simply want to know.

Too often in the debate over adolescent abortion, we have lost sight of the adolescent. No matter how disturbing to a parent, a teenage pregnancy is a crisis for an individual whose health and future are suddenly at stake. A pregnant teenager is faced with two choices, either of which must be made quickly in order to ensure her health and safety. Either she is going to carry a pregnancy to term and give birth, or she is going to terminate the pregnancy. Pregnancy allows no other choices, and

society's primary concern should be that neither choice threatens the health or safety of the pregnant girl. Parents — involved voluntarily — can provide help in accessing the health care system and can provide emotional support and advice. But a pregnant girl's parents did not exercise choice for her in whether she became pregnant, and their *compelled* control over her childbearing decision inappropriately assigns greater weight to their role as potential grandparents than to her decision about whether or not to bear a child.

A pregnant teenager needs to be able to make a choice during a crisis: she is the person whose life may be irrevocably altered by too-early childbearing, and she must be the focus of policies to assist her. To help that teenager, we must find ways to deliver appropriate, competent guidance and care to her, for whatever the duration of her pregnancy. Only she will have to carry the pregnancy and bear the child; only she will have to go through an abortion.

Because their rights and needs are often considered secondary to the rights of parents, adolescents stand at a very vulnerable point today. While the country agonizes over high rates of adolescent pregnancy, poverty, and unwed motherhood, many states have seized upon the singular act of teenage abortion for legislative action. In these debates, little attention is paid to the fact that for a teenager, childbirth is 24 times more likely to result in maternal death than early abortion. And few recognize the irony of forcing a teenager deemed too immature to choose an abortion to take on the burdens and responsibilities of parenthood.

Moreover, no other reproductive health care services require parental involvement: not HIV/AIDS testing, not treatment for sexually transmitted diseases, not even pregnancy, prenatal care and childbirth. Although the nation is angered by the high rates and cost of teenage childbearing, and deplores the infant mortality rates that come from teens not receiving adequate nutrition or prenatal care, we seem overwhelmed by the idea that a pregnant teenager might decide for herself that she is not ready to bear a child.

This publication seeks to explain the many facets of adolescent abortion: teenagers' need for access to safe abortion, the need for confidentiality in order to ensure that safety, the real intent and effect of parental involvement laws, and the roles of parents and the state in safeguarding the health of pregnant teenagers. How many teenagers are there whose unplanned pregnancies end in abortion? Is adoption an alternative to abortion? Isn't parental involvement a good thing? What constitutes choice for a teenager? Do parents have a right to know? When a teenager is pregnant, who decides?

WHEN PREGNANCY IS UNWANTED

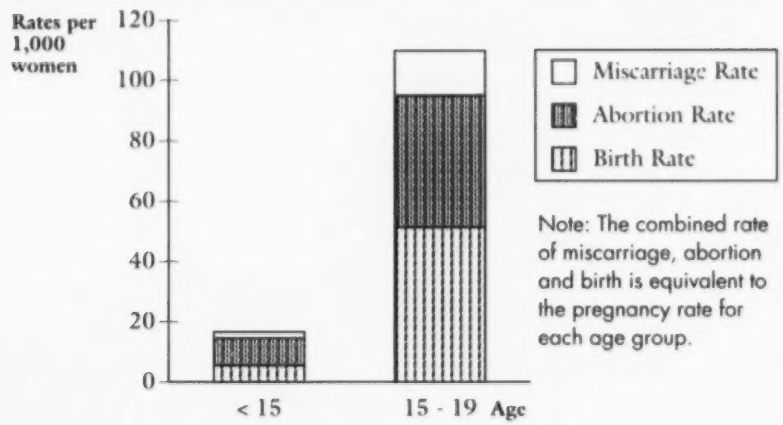
Every year in the United States, more than a million teenage girls become pregnant. The vast majority become pregnant by accident, without any intention of having a child. Because so many adolescent pregnancies are unintended, more than 40 percent of pregnant adolescents choose to end the pregnancy with a legal abortion. This publication concerns itself with those adolescent girls: girls for whom pregnancy is not only unplanned, but is unwanted because of the extreme negative consequences of too-early childbearing.

CHOOSING ABORTION

- More than one million teenage girls become pregnant in the U.S. each year; 1,031,040 became pregnant in 1985.[2]
- Eighty-four percent of all pregnancies to married and unmarried teenagers are unintended.[3] Teen pregnancies account for close to one-third of all unintended pregnancies in the U.S.[4]
- Forty-two percent of all teenage pregnancies end in abortion; 46 percent of pregnancies to girls age 14 and under end in abortion.[5]
- Teenagers account for about 25 percent of the total number of abortions performed in the U.S.[6] In 1985, teenagers had 477,705 legal abortions; about half of those were to teens under the age of 18.[7]
- Sixty-eight percent of teenagers having abortions state that they are doing so because they are not mature enough to have a child, and 73 percent say they cannot afford to raise a child. Eighty-seven percent fear that having a baby would dramatically change their lives in ways they are not yet ready to handle.[8]

Almost half a million teenage girls each year make the choice to have an abortion; approximately 50 percent of those girls are 17 years old and younger. Recent research indicates that in the overwhelming majority of cases, those choosing abortion are fully competent to make that choice maturely.[9] Moreover, the decision to confirm a pregnancy with a clinical test and to discuss options with a

PREGNANCY, BIRTH AND ABORTION RATES PER 1,000 U.S. WOMEN, BY AGE AT OUTCOME, 1985



Source: Alan Guttmacher Institute, *Teenage Pregnancy in the United States: The Scope of the Problem and State Responses*, New York, 1989, Table 5, p. 21.

ERRATA

On page 3, the sentence:

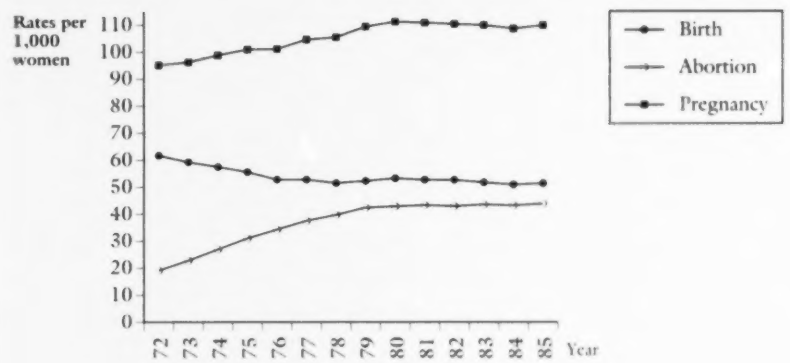
"In 1985, teenagers had 477,705 legal abortions; about half of these were to teens under the age of 18,"

should read

"In 1985, teenagers had 416,170 legal abortions; 44 percent of these were to teens under the age of 18."

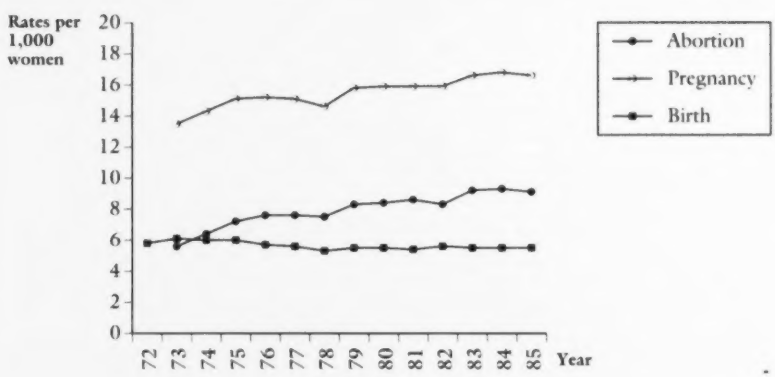
counselor or physician are indications of mature thought and action. Judges handling minors' appeals for an abortion without parental involvement confirm this impression, again and again affirming that the girls who come before them are mature enough to make the choice for themselves.[10] Ironically, our laws do not question the maturity of a teenager who decides to bear and raise a child, merely those who decide — despite a pregnancy — that they are not yet ready for that responsibility. It is maturity of thought that prompts a pregnant teenager to seek help from a competent professional. For these teenagers, when abortion is the choice they wish to make, its legality and safety should be of utmost concern.

PREGNANCY, BIRTH AND ABORTION RATES PER 1,000 U.S. WOMEN AGES 15-19, 1972-1985



Source: Alan Guttmacher Institute, *Teenage Pregnancy in the United States: The Scope of the Problem and State Responses*, New York, 1989, Table 5, p. 21.

PREGNANCY, BIRTH AND ABORTION RATES PER 1,000 U.S. WOMEN UNDER 15, 1972-1985



Source: Alan Guttmacher Institute, *Teenage Pregnancy in the United States: The Scope of the Problem and State Responses*, New York, 1989, Table 5, p. 21.

Teenage Pregnancy: A Heavy Dose of Reality

Although it is popular today to talk of the accelerated rate at which our children grow up, some things never change. Teenagers may have more of the external trappings of adulthood such as distinctive fashion styles, cars, and "street smarts," but their nature is still largely determined by their age and level of physical and emotional development. Teenagers are bombarded by sexual imagery, yet their level of sexual ignorance is high. And sexuality education has not addressed this ignorance, remaining mired in social and political debates over what is appropriate to teach in school. Consequently, the same myths about "it can't happen the first time," and "you can't get pregnant standing up," and "if he pulls out, I'll be OK," or "douching after sex will prevent pregnancy," abound. In recent focus group research, a group of high school males reported learning in health class that when a man is drunk, his sperm are incapable of impregnating a woman.[11] Perhaps most important, the age-old belief of adolescents that bad things "won't happen to me" perpetuates the problems associated with risk-taking behavior.

"Before I told my parents I was pregnant, I tried to get rid of this child. In desperation I drank a bottle of whiskey, a bottle of castor oil, jumped off a house, and other things too dangerous to ever repeat. I didn't know how close to killing myself I was."[12]

Teenage Sexual Activity and Contraceptive Use

Whatever we may wish to believe, millions of teenagers each year have sex. During the Reagan decade of abstinence-based pregnancy prevention programs, the sexual activity rate among adolescents increased dramatically, belying the effectiveness of that narrow approach.[13] Despite the availability of contraceptives and increasing awareness of the dangers of sexually transmitted disease and HIV/AIDS, most adolescents do not use contraception when having sexual intercourse, or use it inconsistently. This is particularly true in the first year of sexual activity, due to ignorance, ambivalence about both sex and sexuality, and a generalized failure or unwillingness to plan for sexual intercourse. Because teenagers tend not to associate having sex with having children, many teens first seek out contraception only after a pregnancy "scare."[14] The fact is that most teenage girls do not consider or face the reality of childbearing until an unplanned pregnancy forces them to do so.

- The average age at first intercourse in the U.S. is 16.2 for girls and 15.7 for boys.[15]
- Approximately one-fourth of 15-year-old girls and one-third of 15-year-old boys have had sexual intercourse.[16,17] Among all adolescents, 77 percent of females and 86 percent of males are sexually active by age 20.[18,19]
- From 1982 to 1988, the percentage of girls ages 15-19 who had ever had premarital sexual intercourse increased from 43 percent to 51 percent.[20]
- More than 20 percent of all first premarital pregnancies occur in the month after the initiation of sexual intercourse and half occur within six months.[21]
- The most recent survey of sexually active females ages 15-19 showed that 29 percent used no contraception, or an ineffective method of contraception, at last intercourse.[22]
- Three-quarters of all unintended teenage pregnancies occur to adolescents who do not use contraception.[23]

Parent-Child Communication About Sex

Communication between parents and children is critical to the healthy development of attitudes and values that will shape a child's sexual behavior as he or she grows into an adult. But in all too many cases, that communication comes too late in a child's life, or is hampered by embarrassment or insufficient information. To be most helpful to children, parent-child communication about sexuality must be established early as a

normal part of family discussion. Important as such communication is, however, many parents do not feel equal to the task of educating their children about sex and most teenagers report wanting more openness on these subjects with their parents.

- Ninety-eight percent of parents report that they need help in talking to their adolescent children about sex.[24]
- Only 59 percent of parents of 7- to 18-year-olds report feeling very comfortable talking with their children about sex, birth control and abortion. Thirteen percent say that they feel "not very" or "not at all comfortable."[25]
- Among parents of 11- to 18-year-olds, only 62 percent have discussed the use of birth control.[26]
- Family communication about sex is very limited for boys. Mothers are more likely than fathers to discuss sex with their children, and they are more likely to discuss contraception with daughters than with sons. Forty-six percent of girls, compared with just 25 percent of boys, report having talked about birth control with parents.[27,28]
- Of the 68 percent of teenagers who report having talked with parents about sex, 33 percent have discussed sex but not birth control and 35 percent have discussed contraception. Thirty-one percent of teens report no discussion of sex or birth control with parents.[29]

Most adolescents report that parents are their primary and preferred source of information about sex, and most teenagers who become pregnant voluntarily inform and seek counsel from a parent. But whatever we might wish, this kind of positive communication cannot be legislated, especially when it is mandated at the height of a crisis — after a pregnancy has occurred. Instead, improving family communication about sex and sexuality should be a priority of early sex education and pregnancy prevention strategies.

Alternatives to Abortion: No Simple Solutions

Opponents of abortion frequently talk about teenage pregnancy, childbearing and adoption in terms that downplay or negate the very real physical, psychological and social consequences associated with teenage childbearing. In their eyes, any outcome is better than abortion. Teenage childbearing, however, is not a simple alternative to abortion; it is one that compounds all of the emotional and physical hazards of being pregnant with the consequences of giving birth and, perhaps, raising a child. These consequences can be, and often are, devastating to the life of a teenage girl.

Teenage Childbearing and Adoption

The experience of carrying a pregnancy to term and giving birth holds both physical and emotional risks, especially for adolescents. During a pregnancy, adolescents are more likely than older women to suffer medical complications such as pregnancy-induced hypertension (toxemia) and anemia, and to run the risk of complications from an under-developed cervix.[30] These risks, and the health risks they transfer to the child, are compounded by the likelihood that a teenager will receive poor prenatal care or receive it late in the pregnancy, a problem that has contributed to high rates of low birthweight and other health problems in babies of adolescent mothers. The babies of adolescent mothers are more likely to die in infancy than are babies of women in their 20's or in their 40's — the latter another high-risk age group.[31]

Knowing that adoption is an alternative to parenting may for some women make bearing a child an easier decision. But the attachment that develops between a woman and the baby she bears is profound, and helps explains why today only four percent of teenagers who give birth choose to give up their child for adoption.

In childbirth, adolescents also face greater risks than older women. Mortality rates from pregnancy and childbirth are much higher for teenage girls than for women in their early twenties.[32] Moreover, adolescents ages 15-19 are more than 24 times more likely to die from childbirth than from an early legal abortion.[33] Beyond the physical risks, childbirth carries with it enormous emotional consequences, belying the suggestion that adoption is an easy alternative to abortion. Post-partum women can feel an enormous range of emotions, from happiness or euphoria all the way to depression and regret. Knowing that adoption is an alternative to parenting may for some women make bearing a child an easier decision. But the attachment that develops between a woman and the baby she bears is profound, and helps explains why today, with less stigma attached to unwed motherhood, only four percent of teenagers who give birth choose to give up their child for adoption.[34]

Teenagers who become mothers have their lives irrevocably altered. When parenthood has been planned and is welcomed, it can be the most rewarding experience in a lifetime. But if motherhood has been unplanned and is unwanted, the burdens on both mother and child are enormous. Studies suggest that unwanted children of teenage mothers tend to be at a disadvantage educationally, socially, and psychologically.[35] Moreover, their long-term potential is hindered by the likelihood that they will grow up economically disadvantaged, will have lower scholastic achievement and less job satisfaction than children who are born of welcomed pregnancy.[36]

Economically and socially, a teenage mother is significantly disadvantaged compared with her non-parenting peers. Her earning potential is decreased, even if

"It never occurred to me that I might be pregnant — I thought I had the flu. I was shocked that the [test] was positive. I was angry that the Pill had not been effective. I knew that I could not adequately raise a child at that time in my life. I also knew that I could not deliver a baby and then give it up for adoption. I made a responsible decision to have an abortion."[37]

she finishes high school. Education is likely to be truncated, and the likelihood of having to depend on public support for some period of time increases.[38] More than 50 percent of recipients of Aid to Families with Dependent Children (AFDC) began their families with a teenage birth.[39] That reality is not just a burden for the mother, but for society as well. In 1988, the U.S. spent nearly $20 billion on Medicaid, AFDC and food stamps for families that had begun with a teenage birth.[40]

THE PUBLIC COST OF TEENAGE CHILDBEARING

- Over half of Aid to Families with Dependent Children (AFDC) payments go to support families that began with a teenage birth. Similarly, over half of Medicaid and Food Stamps benefits paid to families who qualify for AFDC go to families that began with a teenage birth.[41]
- In 1988, the United States spent $19.83 billion in AFDC payments, Medicaid, and food stamps to support families that began when the mother was a teenager.[42]
- The cost to support the families of all first babies born to teenage mothers in 1988 will be $5.98 billion by the time those babies reach age 20. If these births had been delayed, the U.S. could have saved over $2.39 billion.[43]
- The Alan Guttmacher Institute estimates that for every dollar invested in family planning and pregnancy prevention programs, the U.S. would save $4.40 attributable to the short-term public costs of supporting unintended births.[44]

These costs and consequences exist today, at a time when legal abortion is still relatively accessible. Reducing the availability of safe abortion by erecting barriers to adolescent access could force thousands of teenagers who are unwilling or unable to take on the responsibilities of pregnancy and childbearing to become parents too soon, and against their will. The elimination or constraint of the abortion choice can only increase these already unacceptable personal and social costs. One recent estimate of this effect projected an increase of 75,000 teenage births nationally if access to safe abortion were denied.[45]

ADOLESCENTS AND CONFIDENTIALITY

"If my parents find out, they'll kill me."

This is a phrase virtually every teenager in this country has uttered at least once, and it is one of the most compelling emotions that guides adolescent behavior. Regardless of the reality of a parent-child relationship, adolescents are driven by their anticipation of parental reaction; rarely will they risk putting that reaction to the test. In Indiana, Rebecca Bell discovered at the age of 17 that she was pregnant. Seeking an abortion, she was told that her parents must consent or she must get the permission of a judge. Because Becky heard that the judge rarely granted such requests, she decided to take the matter into her own hands. She arranged for an illegal abortion, and three days afterwards she died. Rebecca Bell's parents are caring people who loved their daughter. It is hard to believe that any child would be afraid to share such a crisis with them. But Becky didn't live long enough to learn that her parents wouldn't have hated her, wouldn't have punished her, wanted to help her. Rebecca Bell was a normal teenager. For her, for her own private reasons, confidentiality was more important than her safety, more important than the law.

Physical development and new emotions characterize adolescence: it is the time when the body changes to be able to reproduce. The adolescent years are spent adjusting to this physical and emotional growth. For most teenagers, these changes are somewhat confusing and unsettling; at times, they are embarrassing. Teenage girls, who are only beginning to understand their own sexuality, often manifest their confusion and ambivalence about these changes in a heightened desire for privacy. This need for privacy and confidentiality is repeatedly cited by teenagers as a primary factor in deciding whether or where to seek reproductive health care. And protecting that privacy so that minors will seek reproductive health care has been repeatedly recognized in public policies guiding the provision of that care to minors.

MINORS AND THE NEED FOR REPRODUCTIVE HEALTH CARE

Parents will frequently complain that for any other medical procedure for a minor, even the provision of over-the-counter medicine, doctors and schools need their permission. While schools will often require parental permission for everything from band-aids to field trips, they do so to protect themselves from liability, not because the law requires parental involvement. Moreover, in some states, common law allows physicians to determine that a minor is mature enough to consent to his or her own medical treatment in cases where parental consent may be problematic and in most cases to waive parental consent to deliver emergency medical care to a patient.

Reproductive health care has long been treated with extra sensitivity to privacy rights and needs. Because people — especially adolescents — are reluctant to seek care for sexually related problems or behaviors, in virtually every state an individual can receive publicly funded reproductive health care on a confidential basis, regardless of age. This guiding principle exists because of the very sensitive nature of sexually related health care and disease, and because the control of both sexually transmitted diseases (STDs) and unintended pregnancy depends upon the willingness of people to seek appropriate health care. For teenagers, that willingness is tied closely to confidentiality of services.[46]

Title X of the Public Health Services Act provides funds to family planning clinics which, in turn, serve more than a million teenagers each year. In addition to pregnancy testing, these clinics provide regular screening for sexually transmitted diseases, and provide cancer screening and contraceptive counseling. For many poor clients, these clinics are their only source of health care. Because of

adolescents' heightened need for privacy in sexual matters, and because society's overriding concern is the prevention of disease and unintended pregnancies, Title X clinic services are provided on a confidential basis.

The control of both sexually transmitted diseases and unintended pregnancy depends upon the willingness of people to seek appropriate health care. For teenagers, that willingness is tied closely to confidentiality.

Early in his first term, Ronald Reagan issued the infamous "Squeal Rule" order, requiring family planning clinics to send a notice to parents whose children sought contraceptive services. This order unleashed an extraordinary outcry from the medical and social services professions that resulted in its speedy demise. What those experts emphasized was that the priority in delivering adolescent reproductive health care is in attracting teens to health services, not scaring them away. Adolescents who are having sex already delay seeking contraception or testing and treatment for sexually transmitted diseases. Any adolescent health service provider will testify that teens will not come to a clinic if they are concerned about identification by a neighbor or family member.

"WHAT IS A PARENTAL INVOLVEMENT LAW?"

Parental involvement laws can take two forms:

Parental Consent requires a doctor to obtain the written permission of a parent before a minor can obtain an abortion.

Parental Notification requires a doctor to notify the parent of a minor girl of her intention to have an abortion before the abortion can be performed. Some states require a waiting period (24-48 hours) after notification before the abortion can take place.

In both cases, laws generally apply to teenage girls under age 18. States' laws differ on the age of the minor and whether to require the involvement of more than one parent (see Appendix A).

Alternatives to compelled parental involvement have taken two forms:

Judicial Bypass allows a pregnant teenager to petition a judge for approval instead of involving her parents in the abortion decision. In a standard judicial bypass procedure, the judge decides whether the pregnant girl is mature enough to make her own decision, or — if she is deemed not mature enough — whether an abortion would be in her best interests.

Involvement of a Competent Adult in some cases is allowed in lieu of informing or obtaining permission from parents. In Maine, for example, a pregnant minor is allowed to seek counsel and consent from a health professional, trained counselor, judge, or other specified adult instead of going to her parents. In South Carolina, a grandparent's consent may replace a parent's permission (See Appendix B).

When a teenager is having sex, the desire for confidentiality is compelling. When a teenager is pregnant, her desire for privacy is extreme. Still, not every teenager clings so fiercely to familial privacy. In fact the majority of adolescents choose to involve a parent voluntarily in a pregnancy outcome decision.[47] But for those who feel they cannot involve their parents, a law forcing that communication merely increases the obstacles to a safe outcome. As long as some states continue to provide abortion without parental involvement, girls with the means will travel to another locale; others may seek a court bypass. If these laws become widespread,

girls will be forced to consider more dangerous alternatives, or they will risk sometimes threatening confrontations. In Idaho, a pregnant girl named Spring Adams, the victim of incest, arranged to receive an abortion in a neighboring state where she would not have to involve her father. On the day she was to travel, her father learned of the plans, shot and killed his daughter, and then shot himself. Spring Adams was 12 years old.

Adults and Parental Involvement Laws

Public opinion polls tell us that nearly three-quarters of voters in this country oppose government intervention in a woman's private abortion choice.[48] Ironically, approximately the same percentage supports parental consent laws for minors' abortions, indicating a willingness to allow certain government intrusions.[49] Why the contradiction? Why is government intervention in a teenage girl's private decision desirable when it is considered intrusive for other pregnant women? The answer lies in the widespread perception that parental involvement laws have less to do with abortion than they do with parental authority and family structure.

Promulgated as promoting family communication, parental consent and notification laws in fact address a very narrow range of "family" interactions. First, they are limited to parent-daughter interaction, and only after a daughter has become pregnant, suggesting that there has been little previous communication about her decision to have sex or about contraception. Second, these laws require consultation about a difficult and divisive problem at the height of a crisis, when tempers can flare and, in dysfunctional families, may even provoke violence or abuse. Finally, the real effect of these laws is to alter a pregnant teen's approach to seeking help, not to change her decision or improve family communication: the belief that a parent will react badly is what guides a pregnant teenager's actions, regardless of what the reality may be. Fear of that outcome, therefore, may drive teens who feel they cannot tell their parents to take alternative steps, rather than seeking help from a clinic or a doctor who might "tell."

By making adolescent abortion legally contingent on parental involvement, we in fact eliminate the compatibility of parental involvement and safe abortion. Laws can ensure either that parents are involved in their daughter's decision, or that a pregnant teen has unimpeded access to competent medical care if she chooses abortion without consulting her parents.

Focus group research has revealed that, for adults, parental consent is not an abortion issue.[50] Rather, it is an issue that strikes deep in the heart of all parents' fears and uncertainties about their role as guiders, arbiters, protectors, and shapers of their children. Parents of teenagers almost always have a sense of losing touch with their child and many are deeply concerned about their child's safety. To questions about adolescent abortion, a parent most often will respond that they "don't want my child to go through something like that without me." Parental consent laws give these parents hope that they will still be able to exercise some control.

In reality, these laws do not give parents that control. What they do is potentially pose a fundamental conflict of interest that pits the health and safety of a pregnant girl against the state's insistence that parents be part of a decision. By making adolescent abortion legally contingent on parental involvement, we in fact eliminate the compatibility of parental involvement and safe abortion. Laws can ensure either that parents are involved in their daughter's decision, *or* that a pregnant teen has unimpeded access to competent medical care if she chooses abortion without consulting her parents. They cannot do both.

Thus, while most adults perceive parental involvement laws as designed to protect their interests as parents, the laws in fact make parents choose between their

interest in a daughter's health and their interest in being directly involved in her decision. And as long as adults continue to see the laws erroneously as insurance policies for positive parental involvement, pregnant teenagers will increasingly be deterred from seeking safe abortion or early prenatal care. However benignly perceived, these laws limit a pregnant girl's access to competent consultation, advice and care during a time of crisis by making her more afraid to seek that care, and increasing the risk to her health regardless of the decision she ultimately makes.

Compelled Parental Involvement Delays an Abortion Decision

Even if one considers parental involvement laws benign in their intent, the effects of erecting this sort of barrier are immediately felt in the delay they impose on a pregnancy outcome decision. Whether because of ignorance, fear, or ambivalence about their own sexuality, teenagers who are having sex tend to delay seeking reproductive health care before they become pregnant and during a pregnancy. Sometimes teenagers do not recognize pregnancy symptoms; often they refuse to admit that they may be pregnant. Teenage girls are likely to put off taking a pregnancy test, so often they don't receive competent advice or care until later in a pregnancy than is common for older women.[51] No matter what a teenager decides to do about a pregnancy, delay of health care is always harmful.

In the case of a pregnancy that will be carried to term, delay means a lack of important prenatal care in the first trimester, increasing the chances of maternal health risks and low birthweight or other health problems for the baby. In the case of a decision to terminate a pregnancy, delay makes an abortion riskier, more expensive, and more difficult to obtain. When considering abortion, a speedy decision is of utmost importance: later abortions, particularly second-trimester abortions, present greater risks of complications for teenage girls.[52]

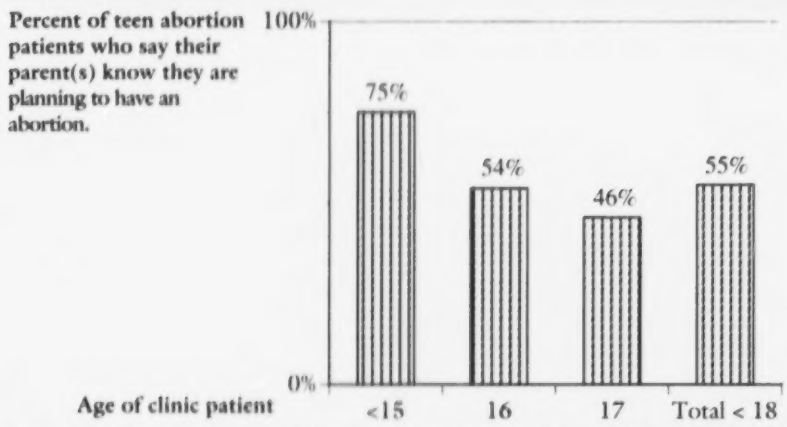
Although 90 percent of legal abortions in the U.S. are performed in the first trimester of a pregnancy, teenage girls make up a disproportionately high percentage of second trimester abortion patients, largely because of their tendency to delay taking any action.[53] Parental involvement laws can add significant amounts of time to an abortion decision that has already been delayed, either by causing the pregnant teenager additional anguish over whether and how to tell her parents, or by forcing her to use a sluggish judicial system in order to avoid parental involvement.[54] A study done of the Ohio judicial bypass system showed that it could take up to 23 days to obtain a judge's permission for an abortion, a process that could easily force a teenage girl into the second trimester of pregnancy.[54]

In Minnesota... the teenager and one parent have frequently gone to court together in order to waive a requirement for notification of the second parent. In other cases, teenagers who are able have travelled to another state where parental involvement is not required. In none of these instances is the teenager's final decision any different, nor is the health care she receives improved because of the government's intervention in the process.

The intrusiveness of the judicial bypass procedure also unduly adds to the risks and burdens faced by a pregnant teenager without improving the standard of care she may receive. Although a judge might allow her to avoid involving her parents, a teenager can receive no other benefit from a judge that she needs: a judge is not competent to offer medical advice and in most cases has no personal knowledge of the girl. A hearing before a strange judge is intimidating and, for some girls, humiliating. Far from offering a humane alternative to forced parental involvement, the judicial bypass at best merely delays the performance of an abortion, making it more dangerous, and at worst is a punitive exercise that makes any decision more difficult, more painful, and more hazardous.

In spite of the obstacles presented, however, parental involvement laws have had little effect on adolescents' sexual behavior or abortion decisions. In most cases, especially for young adolescents, parents are voluntarily involved regardless of the law (see Appendix A). In Minnesota, where two parents' involvement is required, the teenager and one parent have frequently gone to court together in order to waive a requirement for notification of the second parent.[56] In other cases, teenagers who are able have travelled to another state where parental involvement is not required.[57] In none of these instances is the teenager's decision any different, nor is the health care she receives improved because of the government's intervention in the process. In fact, her health status suffers because of imposed delays in obtaining appropriate health care.

TEENAGE ABORTION AND VOLUNTARY PARENTAL INVOLVEMENT



Source: A. Torres, J.D. Forrest and S. Eisman, "Telling Parents: Clinic Policies and Adolescents' Use of Family Planning and Abortion Services," *Family Planning Perspectives*, 12:6, 1980.

COMPELLED INVOLVEMENT: DANGER AND DELAY

- Teenagers account for a disproportionate number of riskier, second-trimester abortions: 23 percent of abortions to teens under 15 occur after the first trimester, compared with 8 percent of abortions to women ages 20-24. Fourteen percent of abortions to teens under age 15 occur at 16 weeks gestation or later.[58]
- Teenage girls ages 15-19 are about 24 times more likely to die from childbirth than from first trimester legal abortion.[59] Teenagers are less likely to experience complications from legal abortion than older women.[60]
- Twenty to fifty-five percent of minor abortion clinic patients go through the court system rather than informing a parent. These numbers were taken from studies of various clinics in Rhode Island, Massachusetts and Minnesota.[61]
- In Massachusetts 35 percent and in Rhode Island 49 percent of the minors who contact a clinic decide to go out of state to obtain an abortion. Both states have parental consent laws in effect.[62]

ADOLESCENT ABORTION AND THE SUPREME COURT

"For too many young pregnant women, parental involvement in this most intimate decision threatens harm, rather than promises comfort. The court's selective blindness to this stark social reality is bewildering and distressing."

— Excerpted from Justice Blackmun's dissenting opinion in *Ohio v. Akron Center for Reproductive Health*, June 25, 1990.

Building on a substantial body of case law that recognized a constitutional right of privacy, the Supreme Court has ruled over the past two decades that the right to privacy extends to personal decisions that allow an individual to determine his or her own destiny. The Court has explicitly interpreted this privacy right to include choosing a marriage partner, choosing whether or not to beget or bear children, and choosing how best to rear children within the context of a family.[63]

Parental involvement laws for minors' abortion attempt to distinguish the right of each individual to decide when and whether to bear a child based on the chronological age of the pregnant woman. But the ability to bear children, determined by biological — not calendar — age, must bring with it the right to decide when and whether to do so. Nevertheless, thirty-two states have passed parental notification or consent laws that guarantee the parents of a pregnant teenager the right to interfere in their daughter's decision to terminate an unwanted pregnancy (Appendix A).

On June 25, 1990, the Court ruled in two cases involving parental notification (*Hodgson v. Minnesota* and *Ohio v. Akron Center for Reproductive Health*), allowing states to enforce laws that require notice of one or two parents as a prerequisite for a minor's abortion as long as a judicial bypass procedure is in place. The decision in *Hodgson* also provided the first Court affirmation of a waiting period, declaring constitutional a Minnesota provision that a physician wait 48 hours after giving notice to parents before performing an abortion on a minor. These decisions have the immediate impact of allowing enforcement of parental notice laws that already exist but have been enjoined. In the longer term, the green light from the Court on parental involvement laws will free more states to consider these laws as legitimate limitations on adolescent abortion, and it will set the stage for testing similar restrictions on minors' access to contraception and family planning.

GRISWOLD V. CONNECTICUT

Although the right to use prescription contraceptives was not extended to unmarried persons until the *Eisenstadt v. Baird* decision in 1972, *Griswold v. Connecticut* (1965) is widely cited as the case used by the Supreme Court to extend a constitutional right of privacy to the decision about whether and when to bear a child.[64] In that case, the Court ruled that a married couple has the right to prevent a pregnancy as part of their decision about whether or when they want to bear children. Having that right, the Court ruled, means being free of government interference in the use of prescription contraceptives. Thus, *Griswold* is important for having strengthened the privacy right, and for having established that personal decisions about childbearing should be protected from government interference because of the privacy issue.

Taken with the *Eisenstadt* case, *Griswold* is the decision most at risk when the right to abortion is questioned or abridged. If the Court decides that the privacy

right does not protect a woman of any age from outside interference in her decision about whether to bear a child, then the right to decide to prevent a pregnancy (to contracept) without governmental or other permission is equally at risk. In the case of teenagers, the possibility that contraception might be regulated by requiring parental permission could mean that many fewer teens would seek or use reliable contraceptive methods, resulting inevitably in increased unintended pregnancies and a higher demand for abortion services.

Planned Parenthood of Central Missouri v. Danforth and Bellotti v. Baird

Three years after *Roe v. Wade*, and four years after *Eisenstadt*, the Supreme Court upheld the privacy principle for adolescents in its decision in *Planned Parenthood of Central Missouri v. Danforth*. In that case, the Court decided that parental consent laws for minors' abortions interfere with the right of a pregnant teenager to make a private choice about childbearing. Three years later, the Court's decision in *Bellotti* specified that any parental consent law must provide a minor the means to bypass a parent's consent through — at minimum — a petition for approval to a judge. The Court specified further that, if the judicial appeal is not a quick and confidential process, it would unconstitutionally hamper a pregnant minor's right to private choice.

Assuming a readily accessible, no-cost judicial process, the bypass procedure could work. Unfortunately, in reality the bypass provides little help. It requires a minor to have the maturity and wherewithal to access an often obscure legal system. In some cases, judges are not available within a given area and so the teenager must travel to another city or town.[65] In overloaded court systems, it is often difficult to obtain representation. And while the process is supposed to be expeditious and confidential, bypass procedures are often lengthy and can involve more than 20 people who learn the identity of the minor.[66]

Hodgson v. Minnesota; Ohio v. Akron Center for Reproductive Health

Because *Bellotti* applies specifically to parental *consent* laws, the Supreme Court agreed to hear a pair of cases regarding parental notification of a minor's abortion decision in the fall of 1989. These two cases concern laws where a doctor is required to notify the parent or parents of a minor that she intends to have an abortion. Specifically at issue in these cases were the constitutionality of the two-parent notification requirement, the necessity for a judicial bypass procedure for notification laws, and the constitutionality of a waiting period following notice before an abortion can be performed.

What is clear is that states may use parental involvement laws to erect barriers to adolescent abortion as long as they include a bypass procedure — no matter how cumbersome or intrusive.

On June 25, 1990, the Court ruled in *Ohio v. Akron* that one-parent notification — with a judicial bypass procedure in place — is not unconstitutional and does not unduly restrict a minor's right to receive an abortion even if the bypass proceedure is complicated and causes delays. In *Hodgson v. Minnesota*, a majority of the Court ruled that while the two-parent notification requirement is unconstitutional on its face, such a requirement is constitutional when a judicial bypass procedure is in place. The Court ruled further that Minnesota's requirement that an abortion be withheld until 48 hours after parents have been notified is constitutional.

Particularly in the *Hodgson* decision, the Court's rulings provide little guidance to states. The many opinions are a jumble of interpretations of a legitimate state interest in the welfare of a minor and how that interest is translated into abortion

legislation. What is clear is that states may use parental involvement laws to erect barriers to adolescent abortion as long as they include a bypass procedure — no matter how cumbersome or intrusive.[67] Thus, efforts to educate the public and legislatures about the true intent and results of these laws have become even more critical.

In sum, although the Supreme Court has explicitly recognized the right of a pregnant minor to make a private decision about an unintended pregnancy, it has also allowed that right to be constrained by the imposition of forced parental involvement. The judicial bypass procedure that is supposed to protect a minor who fears an extremely negative parental reaction itself diverts attention from the needs of the adolescent for a speedy decision and imposes its own constraint on the private choice it purports to safeguard.

Legislatures have been eager to take up this approach to restricting abortion, although very few statutes succeeded in the most recent legislative sessions. In light of the Supreme Court's decisions in *Hodgson* and *Akron*, however, legislatures should be carefully watched for further attempts to limit abortion access through the imposition of parental involvement laws. Workable alternatives to parental involvement or judicial bypass should be a top priority in states where these laws are likely to gain support in the future (see Appendix B).

A Final Word About Restricting Adolescent Abortion Rights

"Every woman in this state must understand that if she is not poor and if she is not young, she is next."

— Michigan state Rep. Maxine Berman during debate on parental consent legislation, 1990.

No matter what one believes about the ideal role of a parent in an adolescent's decision to bear a child or terminate an unwanted pregnancy, it is important to note that in every single case, parental involvement laws have been promoted by anti-choice, anti-abortion groups in their effort to limit abortion access. The anti-choice movement has made it clear that promoting parental involvement laws is just one step in their efforts to ban legal abortion for all women, and it is a step they are finding rather easy to take.

If parental consent and notification are supposed to improve family communication and the health of the pregnant girl, why is it that the public health and youth advocacy communities in this country either oppose the laws strongly or have remained silent about them (see Appendix C)? These laws receive their strongest support from anti-choice groups precisely because they are obstacles to obtaining a safe abortion, not measures to ensure the safety of the procedure. From a public health perspective, these laws are burdensome and inappropriate public policy because they fail utterly to improve the situation to which they apply. In many cases, they make matters much worse, even dangerous, for pregnant teens.

The anti-choice movement has made it clear that promoting parental involvement laws is just one step in their efforts to ban legal abortion for all women, and it is a step they are finding rather easy to take.

Allowing pregnant teenagers' rights to be constrained and restricted in this manner bodes ill for the rights of all women. It sets a precedent that a pregnant woman must appeal to another authority for permission to control her own childbearing, a precedent that could easily lead to spousal authority or the rights of a man to insist on a pregnancy continuing when a woman did not wish to become pregnant and does not want to bear a child.

Adolescents are vulnerable targets because they are young and because they have little power to wield. Adolescent girls are perhaps the least powerful of all. That vulnerability makes them a good place to start imposing restrictions on reproductive decisions, but it hardly makes them a reasonable place to stop. Effective contraceptives (the Pill and the IUD), sex education in the schools, the right to choose a method of contraception and the right to use that method without public or governmental scrutiny are all at stake in this debate over the rights of sexually active teenagers. And because all of these are central to helping teens safely navigate their adolescent years, the threat to teenagers' access is a threat to their safety as well.

Adolescents may be a vulnerable front line. But if their rights can be so easily dismissed, more profound change cannot be far behind.

REFERENCES

[1] Supreme Court decision in *Ohio v. Akron Center for Reproductive Health*, June 25, 1990. Statement of Justices Kennedy, Rehnquist, White and Scalia.

[2] The Alan Guttmacher Institute (AGI), *Teenage Pregnancy in the United States: The Scope of The Problem and State Responses*, New York, 1989.

[3] E.F. Jones et al., *Teenage Pregnancy in Industrialized Countries*, Yale University Press: New Haven, 1986.

[4] C.F. Westoff, "Contraceptive Paths Toward the Reduction of Unintended Pregnancy and Abortion," *Family Planning Perspectives*, **20**:1, 1988.

[5] AGI, 1989, op. cit. (see reference 2).

[6] National Center for Health Statistics (NCHS) "Induced Terminations of Pregnancy: Reporting States, 1987," *Monthly Vital Statistics Report*, **38**:9, 1990; see also S.K. Henshaw and J. Van Vort, "Teenage Abortion, Birth, and Pregnancy Statistics: An Update," *Family Planning Perspectives*, **21**:2, 1989.

[7] AGI, 1989, op. cit. (see reference 2).

[8] A. Torres and J.D. Forrest, "Why Do Women Have Abortions?," *Family Planning Perspectives*, **20**:4, 1988.

[9] C.C. Lewis, "Minors' Competence to Consent to Abortion," *American Psychologist*, **42**:1, 1987.

[10] American Civil Liberties Union (ACLU) Reproductive Freedom Project, *Parental Notice Laws: Their Catastrophic Impact on Teenagers' Right to Abortion*, New York, 1986.

[11] Center for Population Options (CPO), forthcoming.

[12] This quote is from the National Abortion Rights Action League (NARAL), *The Voices of Women. Abortion: In Their Own Words*, Washington, D.C., n.d.

[13] NCHS, National Survey of Family Growth (NSFG), 1988. Unpublished data, courtesy of the Office for Population Research, Princeton University.

[14] L.S. Zabin and S.D. Clark, "Institutional Factors Affecting Teenagers' Choice and Reason for Delay in Attending a Family Planning Clinic," *Family Planning Perspectives*, **15**:1, 1983.

[15] M. Zelnik and F.K. Shah, "First Intercourse Among Young Americans," *Family Planning Perspectives*, **15**:2, 1983.

[16] W. Baldwin, "Adolescent Pregnancy and Childbearing: Rates, Trends and Research Findings from the Center for Population Research of the National Institute of Child Health and Human Development (NICHHD)," March 1990.

[17] F.L. Sonenstein, J.H. Pleck and L.C. Ku, "Sexual Activity, Condom Use and

AIDS Awareness Among Adolescent Males," *Family Planning Perspectives*, **21**:4, 1989.

[18] NCHS, NSFG, 1988, unpublished data. Special tabulations for the NICHHD.

[19] Sonenstein, Pleck and Ku, op. cit. (see reference 17).

[20] NCHS, NSFG, 1982 and 1988, unpublished data.

[21] L.S. Zabin, J.F. Kantner, and M. Zelnik, "The Risk of Adolescent Pregnancy in the First Months of Intercourse," *Family Planning Perspectives*, **11**:4, 1979.

[22] Baldwin, op. cit. (see reference 16).

[23] Westoff, op. cit. (see reference 4).

[24] AGI, *Teenage Pregnancy: The Problem that Hasn't Gone Away*, New York, 1981.

[25] Louis Harris and Associates, "America Speaks: Americans' Opinions About Teenage Pregnancy, Sex Education and Birth Control," a poll conducted for Planned Parenthood Federation of America (PPFA), 1988.

[26] Ibid.

[27] S.K. Tucker, "Adolescent Patterns of Communication About Sexually Related Topics," *Adolescence*, **24**:94, 1989.

[28] Louis Harris and Associates, "American Teens Speak: Sex, Myths, TV and Birth Control," a poll conducted for PPFA, 1986.

[29] Ibid.

[30] National Commission to Prevent Infant Mortality, *Death Before Life: The Tragedy of Infant Mortality, Appendix*, Washington, D.C., 1988.

[31] Ibid. See also: AGI, *Prenatal Care in the United States*, Volume I, Table 2.5, New York, 1989; NCHS, "Advance Report of Final Natality Statistics, 1987," *Monthly Vital Statistics Report*, **38**:3, Supplement, 1989; C. Makinson, "The Health Consequences of Teenage Fertility," *Family Planning Perspectives*, **17**:3, 1985.

[32] National Commission to Prevent Infant Mortality, op. cit. (see reference 30).

[33] H.W. Ory, "Mortality Associated with Fertility and Fertility Control," *Family Planning Perspectives*, **15**:2, 1983. Calculations by CPO from cited data.

[34] AGI, 1981, op. cit. (see reference 24).

[35] J. Marecek, "Consequences of Adolescent Childbearing," *Adolescent Abortion: Psychological and Legal Issues*, G.B. Melton, ed., University of Nebraska Press: Lincoln, NB, 1986.

[36] W. Baldwin and V.S. Cain, "The Children of Teenage Parents," *Family*

Planning Perspectives, **12**:1, 1987. See also, H.P. David, "Abortion Obtained and Denied: Psychosocial Risks," Statement prepared and presented on behalf of the APHA for presentation to the Subcommittee on Human Resources and Intergovernmental Relations of the Committee on Government Operations of the U.S. House of Representatives, March, 1989.

[37] NARAL, op.cit. (see reference 12).

[38] C.D. Hayes, ed., *Risking the Future: Adolescent Sexuality, Pregnancy, and Childbearing*, Volume I, National Academy Press: Washington, D.C., 1987. See also AGI, 1981, op. cit. (see reference 24).

[39] M.R. Burt, *Estimates of Public Costs for Teenage Childbearing*, CPO, Washington, D.C., 1986.

[40] CPO, "Teenage Pregnancy and Too-Early Childbearing: Public Costs, Personal Consequences," Washington, D.C., 1989.

[41] Burt, op. cit. (see reference 39).

[42] CPO, 1989, op. cit. (see reference 40).

[43] Ibid.

[44] J.D. Forrest and S. Singh, "Public-Sector Savings Resulting from Expenditures for Contraceptive Services," *Family Planning Perspectives*, **22**:1, 1990.

[45] F. Wattleton, "Teenage Pregnancies and the Recriminalization of Abortions," *The American Journal of Public Health*, **80**:3, 1990.

[46] A. Torres, J.D. Forrest, and S. Eisman, "Telling Parents: Clinic Policies and Adolescents' Use of Family Planning and Abortion Services," *Family Planning Perspectives*, **12**:6, 1980.

[47] In a survey of 1,170 abortion clinic patients, 55 percent of minor women stated that their parent(s) knew about their abortion. Among teenagers under 15 years, 75 percent stated that at least one parent knew of their decision to have an abortion. Ibid. A Minnesota study found that 68.2 percent of the 148 minors interviewed voluntarily consulted with at least one parent about their abortion. R.W. Blum, M.D. Resnick and T.A. Stark, "The Impact of a Parental Notification Law on Adolescent Abortion Decision-Making," *American Journal of Public Health* **77**:5, 1987.

[48] Louis Harris and Associates, "Supreme Court Webster Decision Produces Backlash Against Anti-Abortion Cause," *The Harris Poll*, New York, July 16, 1989.

[49] A. Kohut and L. Hugick, "The Webster Decision," *The Polling Report*, **5**:14, July 17, 1989.

[50] Harrison Hickman & Associates, unpublished research for the National Abortion Rights Action League, 1990.

[51] Zabin and Clark, op. cit. (see reference 14).

[52]W. Cates, K.F. Schultz and D.A. Grimes, "The Risks Associated with Teenage Abortion," *The New England Journal of Medicine*, **309**:11, 1983.

[53]AGI, 1981, op. cit. (see reference 24).

[54]ACLU Reproductive Freedom Project, op. cit. (see Reference 10). See also, S. Yates and A. Pliner, "Judging Maturity in the Courts: The Massachusetts Consent Statute," *The American Journal of Public Health*, **78**:6, 1988.

[55]PPFA, Fact Sheet, "Akron Center for Reproductive Health v. Ohio," New York, 1989.

[56]ACLU Reproductive Freedom Project, op. cit. (see reference 10).

[57]P. Donovan, "Judging Teenagers: How Minors Fare When They Seek Court-Authorized Abortions," *Family Planning Perspectives*, **15**:6, 1983.

[58]AGI, 1981, op. cit. (see reference 24).

[59]Ory, op. cit. (see reference 33).

[60]Cates, Schulz and Grimes, op. cit. (see reference 52).

[61]Donovan, op. cit. (see reference 57).

[62]Ibid.

[63]*Loving v. Virginia*, 388 U.S. 1 (1967): whether and whom to marry; *Wisconsin v. Yoder*, 406 U.S. 205 (1972): how to raise and educate one's children; *Griswold v. Connecticut*, 381 U.S. 479 (1965): whether to conceive or bear a child.

[64]*Griswold* dealt with the rights of a husband and wife to contracept. That right was extended to unmarried people in *Eisenstadt v. Baird* , 405 U.S. 438, 453 (1972).

[65]Donovan, op. cit. (see reference 57).

[66]ACLU Reproductive Freedom Project, op. cit. (see reference 10).

[67]According to a dissenting opinion in *Ohio v. Akron Center for Reproductive Health* by Justices Blackmun, Brennan and Marshall, "...the State has failed utterly to show that it has any significant state interest in deliberately placing its pattern of obstacles in the path of the pregnant minor seeking to exercise her constitutional right to terminate a pregnancy. The challenged provisions of the Ohio statute are merely 'poorly disguised elements of discouragement for the abortion decision.'"

APPENDIX A

Status of Parental Consent and Notification Laws By State

	NOTIFICATION			CONSENT			DETAIL
	Enforced	Enjoined#	Not Enforced	Enforced	Enjoined#	Not Enforced	
AL				1987			1 parent; judicial bypass
AK						1978	1 parent; no judicial bypass
AZ					1989/89		1 parent; judicial bypass
AR	1989						2 parent (with exceptions); judicial bypass
CA					1987/87		1 parent; judicial bypass
CO							
CT							(see note 1)
DE						1977	2 parent; no judicial bypass
DC							
FL							(see note 2)
GA		1987/87					1 or 2 parent(s); judicial bypass (see note 3)
HI							
ID			1982				2 parent (with exceptions); no judicial bypass
IL		1983/84					1 parent; judicial bypass (see note 3)
IN				1984			1 parent; judicial bypass
IA							
KS							
KY					1986/90		1 parent; judicial bypass
LA				1981			1 parent; judicial bypass
ME				1989			1 parent consent or the consent of a guardian, adult family friend or counselor; judicial bypass
MD			1977				1 parent; no judicial bypass
MA				1980			2 parent (with exceptions); judicial bypass
MI							
MN		1981/86					2 parent; 48-hour waiting period; judicial bypass (see note 3)
MS					1986/86		2 parent (with exceptions); judicial bypass

* The laws listed apply to teenagers under 18 years of age unless otherwise indicated. In most, if not all cases, parental involvement laws waive consent or notice requirements for "emancipated minors." A teenager under 18 is generally considered "emancipated" if she is married, has previously had a child, or if she can prove that she has lived without parental support for a specified period of time.

Dates given should be read: year enacted/year enjoined.

Compiled July, 1990.

Status of Parental Consent and Notification Laws By State

	NOTIFICATION			CONSENT			DETAIL
	Enforced	Enjoined#	Not Enforced	Enforced	Enjoined#	Not Enforced	
MO				1979			1 parent; judicial bypass
MT			1974				1 parent; no judicial bypass
NE		1985/85					1 parent; judicial bypass (see note 3)
NV		1985/85					1 parent; judicial bypass (see note 3)
NH							
NJ							
NM						1969	1 parent; no judicial bypass
NY							
NC							
ND				1981			2 parent (with exceptions); judicial bypass
OH		1985/86					1 parent; 24-hour waiting period; judicial bypass (see note 3)
OK							
OR							
PA					1988/88		1 parent; judicial bypass
RI				1982			1 parent; judicial bypass
SC				1990			1 parent or grandparent consent for minors under 17; judicial bypass (see note 4)
SD						1973	1 parent; no judicial bypass
TN					1989/89		2 parent; judicial bypass
TX							
UT	1974						1 parent (with exceptions); no judicial bypass
VT							
VA							
WA							
WV	1985						1 parent (with exceptions); 24-hour waiting period; judicial bypass
WI							(see note 5)
WY				1989			1 parent; 48-hour waiting period; judicial bypass

NOTES:

(1) A Connecticut law requires that minors under 16 be counselled by a licensed professional and encouraged to consult with a parent or guardian prior to an abortion. Parental involvement is not mandated by law, however.

(2) Florida's parental consent law was declared unconstitutional by the Florida Supreme Court in October, 1989.

(3) On June 25, 1990 the Supreme Court in *Hodgson v. State of Minnesota* and *Ohio v. Akron Center for Reproductive Health Care* declared constitutional laws mandating parental notification of one or two parents with judicial bypass. Although the decisions referred specifically to laws in Minnesota and Ohio, some parental notification laws previously enjoined in other states may be enforced as a result of these recent Supreme Court rulings.

(4) In South Carolina, parents who withhold consent for an abortion are required to share legal and financial responsibility for their daughter's child until their daughter turns 18.

(5) A 1985 Wisconsin reproductive health law requires that minors be counselled by a physician, counselor, or social worker prior to an abortion. Clinics must also encourage (but not require) minors to discuss their abortion decision with a parent, guardian, relative or family friend.

APPENDIX B

Alternatives to Compelled Parental Involvement

Recognizing that parental involvement laws designed as abortion restrictions have little salutary effect on pregnant teenagers, some states have sought alternatives to the parental consent or notification model that stress counseling and improving the ability of a pregnant minor to make an informed decision. Cautiously applied, such as in Connecticut's new reproductive choice statute, laws codifying the provision of counseling to a minor may present a constructive answer to the conflict between the public's desire to help pregnant teens and the negative effects of parental involvement laws. Caution, however, is important so that the concept of "informed consent" on which such laws are based is not distorted to mean coercive counseling.

Emphasizing Information and Counsel

There are many ways that parental involvement laws can be amended to limit their impact or harm. One way is to apply the law more narrowly to young girls, such as in South Carolina or Connecticut where the law applies only to girls under 16 years old. Other states have tried to diminish the negative impact of the statutes by expanding the definition of "parental" involvement to mean involvement of a competent adult in a girl's decision. These laws always encourage pregnant teenagers to involve parents, but allow them other avenues to seek competent help. In this way, the laws reflect the public's desire to know that young girls are not making an abortion decision in isolation, while softening the possibly extreme effects of insisting on one or two parents' direct involvement.

Connecticut, Maine and Wisconsin all have passed laws that mandate the involvement of an adult in a minor's abortion decision, but allow the minor to choose her source of counseling and advice from among a specific list of relatives and professionals. What is required in all cases is that before the abortion can be performed, the minor must have all of her options explained clearly to her, she must understand how to use the public resources available for prenatal care, adoption, and abortion, and she must explore the possibility of involving a parent or guardian. Also in all three cases, the pregnant teen may seek this advice from a variety of trained counselors, including medical professionals, clergy, social workers, judges, or a guardian. The intent of the laws is to ensure that a minor make a mature decision with all the relevant information available to her. Explicitly, these laws merely codify what is already standard procedure for pregnancy options counseling and abortion provision. Implicitly, they provide an extra measure of assurance that a minor will not act hastily or in isolation.

Informed Consent

Maine, Wisconsin and Connecticut's use of "informed consent" in their statutes means the provision of information to a patient necessary for that patient to make an informed decision about her medical care. Although this is the standard definition of "informed consent" for medical services, anti-choice legislative efforts have attempted to redefine the meaning and intent of "informed consent" to dictate the inclusion of anti-abortion propaganda, pictures of aborted fetuses, and other materials designed to coerce a pregnant woman away from an abortion decision. Because teenagers are particularly susceptible to misinformation and scare tactics, this sort of legislation is especially harmful to them.

Laws regarding counseling for minors' abortion, if they are deemed necessary at all, should emphasize the provision of information that will enable a pregnant teen to make a safe choice for herself. This kind of counseling should review the services available to her if she carries a pregnancy to term, including adoption services and prenatal care, and should discuss the health risks of pregnancy and

abortion. If intended to safeguard a pregnant teenager's health, such a statute might look very much like the law recently enacted in Connecticut. The text of that law follows:

STATE OF CONNECTICUT

PUBLIC ACT NO. 90-113

AN ACT CONCERNING THE REPEAL OF CERTAIN STATUES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) For the purposes of this act:

(1) "Counselor" means: (A) A psychiatrist, (B) a psychologist licensed under chapter 383 of the general statues, (C) an independent social worker certified under chapter 383b of the general statutes, (D) a marriage and family therapist certified under chapter 383a of the general statutes, (E) an ordained member of the clergy, (F) a physician's assistant certified under section 20-12a of the general statutes, (G) a nurse-widwife licensed under chapter 377 of the general statutes, (H) a certified guidance counselor, (I) a registered professional nurse licensed under chapter 378 of the general statutes, or (J) a practical nurse licensed under chapter 378 of the general statues.

(2) "Minor" means a person who is less than sixteen years of age.

Sec. 2. (NEW) (a) Prior to the performance of an abortion upon a minor, a physician or counselor shall provide pregnancy information and counseling in accordance with this section in a manner and language that will be understood by the minor. The physician or counselor shall:

(1) Explain that the information being given to the minor is being given objectively and is not intended to coerce, persuade or induce the minor to choose to have an abortion or to carry the pregnancy to term;

(2) Explain that the minor may withdraw a decision to have an abortion at any time before the abortion is performed or may reconsider a decision not to have an abortion at any time within the time period during which an abortion may legally be performed;

(3) Explain to the minor the alternative choices available for managing the pregnancy, including: (A) Carrying the pregnancy to term and keeping the child; (B) carrying the pregnancy to term and placing the child up for adoption, placing the child with a relative or obtaining voluntary foster care for the child; and (C) having an abortion and explain that public and private agencies are available to assist the minor with whichever alternatives she chooses and that a list of these agencies and the services available from each will be provided if the minor requests;

(4) Explain that public and private agencies are available to provide birth control information and that a list of these agencies and the services available from each will be provided if the minor requests;

(5) Discuss the possibility of involving the minor's parents, guardian or other adult family members in the minor's decision-making concerning the pregnancy and whether the minor believes that involvement would be in the minor's best interests; and

(6) Provide adequate opportunity for the minor to ask any questions concerning the pregnancy, abortion, child care and adoption, and provide information the minor seeks or, if the person cannot provide the information, indicate where the minor can receive the information.

(b) After the person provides the information and counseling to a minor as required by this section, such person shall have the minor sign and date a form stating that:

(1) The minor has received information on alternatives to abortion and that there are agencies that will provide assistance and that a list of these agencies and the services available from each will be provided if the minor requests;

(2) The minor has received an explanation that the minor may withdraw an abortion decision or reconsider a decision to carry a pregnancy to term;

(3) The alternatives available for managing the pregnancy have been explained to the minor;

(4) The minor has received an explanation about agencies available to provide birth control information and that a list of these agencies and the services available from each will be provided if the minor requests;

(5) The minor has discussed with the person providing the information and counseling the possibility of involving the minor's parents, guardian or other adult family members in the minor's decision-making about the pregnancy;

(6) If applicable, the minor has determined that not involving the minor's parents, guardian or other adult family members is in the minor's best interests; and

(7) The minor has been given an adequate opportunity to ask questions.

(c) The person providing the information and counseling shall also sign and date the form and shall include such person's business address and business telephone number. The person shall keep a copy for such minor's medical record and shall give the form to the minor, or, if the minor requests and if such person is not the attending physician, transmit the form to the minor's attending physician. Such medical record shall be maintained as otherwise provided by law.

(d) The provision of pregnancy information and counseling by a physician or counselor which is evidenced in writing containing the information and statements provided in this section and which is signed by the minor shall be presumed to be evidence of compliance with the requirements of this section.

(e) The requirements of this section shall not apply when, in the best medical judgement of the physician based on the facts of the case before him, a medical emergency exists that so complicates the pregnancy or the health, safety or well-being of the minor as to require an immediate abortion. A physician who does not comply with the requirements of this section by reason of this exception shall state in the medical record of the abortion the medical indications on which his judgement was based.

Sec. 3. (NEW) (a) The decision to terminate a pregnancy prior to the viability of the fetus shall be solely that of the pregnant woman in consultation with her physician.

(b) No abortion may be performed upon a pregnant woman after viability of the fetus except when necessary to preserve the life or health of the pregnant woman.

Sec. 4. Sections 53-29 to 53-31b, inclusive, of the general statues are repealed.

[Signed by Governor William O'Neill on April 30, 1990. The Act is effective as of October 1, 1990]

APPENDIX C

Public Health and Youth Organizations Opposed to Parental Involvement Laws

The following national organizations involved in advancing public health and/or youth development signed on to briefs submitted to the Supreme Court opposing parental involvement laws.

PUBLIC HEALTH:
American Public Health Association
National Family Planning and Reproductive Health Association
American College of Obstetricians and Gynecologists
American Psychological Association
Planned Parenthood Federation of America
Mobilization for Youth Health Services, Inc.

ADVOCATES for YOUTH
Girls' Clubs of America (now, Girls Incorporated)
American Association of University Women
National Association of Social Workers
United States Student Association

The Young Women's Christian Association (YWCA) did not sign a brief, but has since passed a national policy statement supporting confidential choice for minors and opposing laws that require parental involvement in an abortion decision.

the Center for Population Options

The Center for Population Options (CPO) is a nonprofit educational organization dedicated to improving the quality of life for adolescents by preventing too-early childbearing.

CPO's national and international programs promote "life planning" and sexuality education; foster access to comprehensive health care, including family planning, through school-based and other community-based clinics; and encourage education to prevent the spread of HIV/AIDS and other sexually transmitted diseases among adolescents.

1025 Vermont Avenue, NW
Suite 210
Washington, DC 20005

202/347-5700
FAX 202/347-2263